

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CURTIS THOMPSON,

Plaintiff,

v.

SCOTT O'TOOLE, et al.,

Defendants.

CASE NO. C05-2064JLR

ORDER

This matter comes before the court on a report and recommendation of the Honorable Monica J. Benton, United States Magistrate Judge (Dkt. # 75) addressing Defendant Seattle Police Officer Randall Higa's motion for summary judgment (Dkt. # 43), Plaintiff Curtis Thompson's motions to compel (Dkt. ## 49, 50), and Mr. Thompson's motion for leave to amend his complaint (Dkt. # 54). Also before the court are Mr. Thompson's objections to the report and recommendation (Dkt. # 76), and the parties' pleadings and exhibits.

Consistent with Judge Benton's recommendations, the court DENIES Mr. Thompson's motions to compel (Dkt. ## 49, 53).

At this time, the court declines to adopt the recommendations of Judge Benton concerning Officer Higa's motion for summary judgment (Dkt. # 43), and Mr. Thompson's motion to amend his complaint (Dkt. # 54). In his objections to the report and recommendation, Mr. Thompson raises new factual allegations relating to the incident at issue. Mr. Thompson contends that he was "away from any victim or officer"

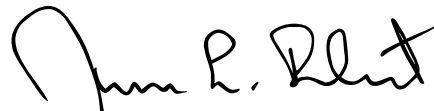
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1 and had to be 'pointed out' and not 'resisting or fleeing' when I was 'tackled from behind
2 and struck in the head.'" See Objections at 1. In light of these new factual allegations,
3 the court does not accept or reject Judge Benton's recommendations concerning the
4 motion for summary judgment (Dkt. # 54) and motion for leave to amend (Dkt. # 54).
5 The court returns the matter to Judge Benton to recommend a disposition.

6 The court cautions Mr. Thompson that in the future the court will not consider
7 factual allegations raised for the first time in objections to a report and recommendation.
8 Such factual allegations need to be included in the initial pleadings so that the Judge
9 hearing the matter is presented with the full factual record.

10 DATED this 23rd day of January, 2007.

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JAMES L. ROBART
United States District Judge